

CITY ORDINANCE NO. CO-035-2021

AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL APPROVING THE LEASE OF THE GEORGE DUPUIS RECREATION CENTER FOR CERTAIN HOURS OF THE DAY AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE LAFAYETTE CHARTER FOUNDATION

BE IT ORDAINED by the Lafayette City Council, that:

WHEREAS, the City of Lafayette is the owner of certain immovable property and improvements located at 1212 Pont des Mouton Road, Lafayette, Louisiana, 70501 and is currently being operated as the George Dupuis Recreation Center; and

WHEREAS, the George Dupuis Recreation Center (the "Center") has classrooms and other areas suitable for use as a high school; and

WHEREAS, the Lafayette Charter Foundation, a Louisiana non-profit corporation, has expressed an interest in leasing the Center for a portion of the day to operate an accredited high school at the Center; and

WHEREAS, the hours of operation of the high school would have a minimum impact on the current hours of operation for the Center; and

WHEREAS, the Lafayette Charter Foundation has agreed to pay rent for the use of the Center, pay for the allocated cost of the utilities and custodial services at the Center, has agreed to obtain the approval of the City of Lafayette prior to undertaking any improvements or alterations to the Center, and agreed to undertake other obligations related to the occupancy and use of the Center; and

WHEREAS, it is necessary and desirable that a Lease Agreement be executed by Lafayette City-Parish Consolidated Government and the Lafayette Charter Foundation setting forth the terms and conditions pursuant to which the Lafayette Charter Foundation will occupy and use the Center during the term of the Lease Agreement.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council, that:

SECTION 1: All of the aforescribed "Whereas" clauses are adopted as part of this ordinance.

SECTION 2: The Lafayette Mayor-President is hereby authorized and directed to execute, on behalf of Lafayette City-Parish Consolidated Government, a Lease Agreement with the Lafayette Charter Foundation providing for the occupancy and use of the George Dupuis Recreation Center.

SECTION 3: The Lease Agreement authorized in Section 2 shall be substantially in the form attached hereto, but may be revised, and may contain such additional provisions, as the Lafayette Mayor-President, in consultation with the Lafayette City-Parish Attorney, may deem necessary, convenient, or desirable to carry out the intent and provisions of this ordinance.

SECTION 4: The Chief Financial Officer for the Lafayette City-Parish Consolidated Government is further authorized and directed to prepare any and all internal and/or administrative budget revisions necessary to comply with the dictates of this ordinance and/or the Lease Agreement.

SECTION 5: All ordinances and resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall become effective upon signature of the Lafayette Mayor-President, the elapse of ten (10) days after the receipt by the Lafayette Mayor-President without signature or veto, or upon the override of a veto, whichever occurs first.

* * * * *

LEASE AGREEMENT

- 1) **PARTIES:** This Lease ("Lease") is entered into and effective as of the ____ day of _____, 2021 (the "Effective Date") by and between the **City of Lafayette** (hereinafter "Lessor") and the **Lafayette Charter Foundation** (hereinafter called "Lessee").
- 2) **PREMISES:** That certain portion of the George Dupuis Recreation Center, 1212 Pont des Mouton Road, Lafayette, LA as described in the attached Exhibit A (the "Property"), consisting of the area designated on the attached Exhibit A within the yellow highlighted area (the "Classroom Wing") together with the remainder of the buildings and improvements situated on the Property (the "Center").
- 3) **TERM:** The term of this Lease is for twelve (12) months commencing July 1, 2021 and expiring June 30, 2022 ("Initial Period") together with any extensions agreed to by the parties or timely exercised in accordance with the terms of this Lease ("the Option Period")(the Initial Period and the Option Period are collectively referred to as the "Term").
- 4) **RENTAL:** Lessee agrees to pay the sum of \$6,840.00 per month through the Term of the Lease. This total is comprised of \$2,678.00 for lease of the Classroom Wing and Lobby restrooms, estimated utility costs of \$1,923.00 and estimated custodian cost of \$2,041.00. The actual custodial and utility costs shall be determined as provided in Paragraphs 16(C) and 19 herein. In addition, Lessee shall reimburse Lessor for the loss of rental revenue due to Lessee's exclusive use of the Classroom Wing either in-cash or in-kind up to a total of \$2,350.00.
- 5) **DELIVERY OF PREMISES:** Lessor shall replace the large conference room divider situated in the Classroom Wing before the Effective Date. Lessee hereby accepts the Classroom Wing in its existing condition as of the Effective Date and assumes responsibility for maintaining the Classroom Wing during the Term of the Lease. Lessee also accepts the Center in its existing condition as of the Effective Date and assumes responsibility for maintaining the Center while occupying or using it during the Term of this Lease. Any improvements or alteration desired by Lessee shall be approved by the Lessor in accordance with the terms of this Lease, and at Lessee's cost.
- 6) **KIND OF USE:** The principal business to be conducted by the Lessee during the Term is the operation of an accredited high school, and the related activities incident to the operation of an accredited high school (the "Use"). Lessee agrees to comply with all laws or ordinances relative to Lessee's Use that are in effect during the Term of this Lease.
- 7) **ALTERATIONS:** The prior written consent of the Lessor shall be required for any improvements or alterations to the Property. All construction, alterations, replacements and improvements made upon the Property during the Lease shall be done by Lessee and shall become the property of Lessor upon the expiration of the Lease. Trade fixtures, machinery and equipment installed by Lessee solely for use in its business may remain the property of Lessee, provided Lessee removes the trade fixtures, machinery and equipment installed by Lessee may be removed at the expiration of the Lease, provided the Lessee is not then be in default, and provided the Property is returned to the same condition as of the Effective Date, ordinary wear and tear excepted. In the event Lessee fails to remove any such trade fixtures, machinery or equipment installed by it, Lessor may at its option and at Lessee's expense demolish, remove and dispose of all such items or may retain as property of Lessor without reimbursement to Lessee. Lessee warrants that no lien, privilege, or claim of any kind shall rest against the Property during the Term of this Lease, including but not limited to any labor or material liens.
- 8) **DELIVERY AT EXPIRATION OF LEASE:** At expiration of this Lease, Lessee shall deliver to Lessor the Property in good order and condition clear of all goods and broom clean. No demand or notice of such delivery shall be necessary, Lessee expressly waiving all notices and legal delays.
- 9) **RENEWAL OR EXTENSION:** Lessee may extend the Lease for two additional one-year periods on the same terms and conditions by providing written notice to Lessor at all addresses shown in Paragraph 20 at least ninety (90) days prior to the end of the then expiring Initial Period or Option Period.

10) **ASSIGNMENT AND SUBLETTING:** This Lease may not be assigned, and neither the Property nor the Classroom Wing may be sublet, partially or fully, without prior written consent of Lessor. Even in the event of permitted assignment or sub-letting, Lessee acknowledges that it shall remain fully responsible for compliance with all terms of this Lease.

11) **PUBLIC ACCESS:** There shall be no public right of access to the Classroom Wing during the Lease with the exception of i) hallway access to the Concession and Kitchen areas in the Center; ii) access to the restrooms designated as RR3 and RR4 on the attached Exhibit A at any time the Center is open for public access other than from 6:30am to 4:00pm; or iii) access to the restrooms designated as RR1 and RR2 on the attached Exhibit A during special events authorized by the Lessor during the term of this Lease. Public access to the Center (excluding the Classroom Wing) shall be limited during the hours of 6:30am – 4:00pm in the manner established by the Lessor.

12) **DEFAULT BY LESSEE:**

A) Should Lessee fail to pay any of the rentals provided for herein promptly on the day when the same shall become due and payable hereunder, and shall continue in default for a period of five (5) days after written notice thereof by Lessor, Lessor shall have the right, at Lessor's option (i) to cancel this Lease, or (ii) to accelerate all rentals due for the unexpired remaining terms of this lease and declare same immediately due and payable, and/or (iii) to sue for the rents in intervals or as the same accrues. Should Lessee be in default of any other obligation under the provisions of this Lease, and shall continue in default for a period of fifteen (15) days after written notice thereof by Lessor, Lessor shall have the right, at Lessor's option (i) to cancel this Lease, or (ii) to accelerate all rentals due for the unexpired remaining terms of this lease and declare same immediately due and payable, and/or (iii) to sue for the rents in intervals or as the same accrues.

B) The foregoing provisions are without prejudice to any remedy, which might otherwise be used under the laws of Louisiana for arrears of rent or breaches of contract, or any lien to which Lessor may be entitled.

C) Lessor's failure to strictly and promptly enforce these conditions shall not operate as a waiver of Lessor's rights. Lessor hereby expressly reserving the right to always enforce prompt payment of rent, or to cancel this lease regardless of any indulgences or extensions previously granted.

13) **BROWN PARK:** Lessee shall have the same right of access to the Property, including Brown Park, as is enjoyed by members of the general public. Special events or exclusive access to the Property, including Brown Park, for school related activities may be consented to by the Lessor.

14) **RIGHT OF ENTRY:** Lessor may enter the Property at reasonable times to inspect the same, to make repairs and alterations as Lessor may deem necessary and appropriate provided that Lessor will not unduly interrupt or inconvenience Lessee's business.

15) **SIGNS:** Unless otherwise agreed in this Lease, Lessee shall not be permitted to place any signs on the premises without Lessor's prior written approval; such approval shall not be unreasonably withheld. A complete description and picture of the sketch of the proposed sign must be presented to Lessor before approval of any such sign. Upon termination of this Lease, Lessee shall remove any sign, advertisement or notice painted on or affixed to the Property and restore the place it occupied to the condition in which it existed as of the Effective Date. Upon Lessee's failure to do so, Lessor may do so at Lessee's expense.

16) **CONDITION AND UPKEEP OF PREMISES:**

A) During the Term of this Lease, Lessee will, as provided herein, keep and maintain in good repair the Property, including any improvements made to the Property. Lessee shall not be liable for any damage or loss in consequence of defects in the Property causing leaks, stoppage of water, sewer or drains or any other defects unless caused by Lessee's Use.

- B) Lessee shall immediately repair any damages caused by Lessee that threatens or weakens the structure or detracts from the appearance of the premises. Lessee shall also maintain a high degree of neatness and cleanliness in the manner established by the Lessor.
- C) The Center's custodian shall be employed by the Lessor. Lessee shall contribute two-thirds (2/3) of the actual compensation and benefits paid to the custodian by Lessor. Lessor retains the right and the obligation to supervise the custodian with regard to maintenance of the Classroom Wing and Lobby restrooms and to provide the custodian with the equipment and supplies necessary to maintain those standards. The equipment presently onsite shall be available to the custodian and to the Lessee during the Term of this Lease.

17) **INDEMNITY:** Lessee will indemnify and hold Lessor and Lafayette City-Parish Consolidated Government harmless from and against any and all claims and demands that may be made or asserted against Lessor arising out of one or more of the following: (1) Lessee's use or occupancy of the Property during the Term of this Lease; (2) any occurrence or event occurring on or in the Classroom Wing during the term of this Agreement; and (3) any alleged act or omission of Lessee or any agent or invitee of Lessee occurring during the Term of this Lease and which act or omission relates to the Property or arises out of Lessee's use or occupancy of the Property. As part of Lessee's indemnity obligations under this Paragraph, Lessee will reimburse Lessor for any and all reasonable costs and expenses (including without limitation thereto attorney's fees, expert fees, deposition costs, and other related costs and expenses) incurred by Lessor in defending itself against any claims of any nature brought against Lessor, whether through litigation or otherwise, and which arise from any alleged act or omission for which Lessee is obligated to indemnify and hold Lessor harmless under the first sentence of this subpart (b); such reimbursement must be made no later than 10 days after the date on which Lessor gives Lessee notice of any such costs and expenses that have been incurred by Lessor.

18) **INSURANCE:**

- A) Liability and Property Damage: Lessee shall at all times during the Term of this Lease, carry and maintain at its own cost and expense, General Liability Insurance against claims for personal injury or death and property damage occurring on the Property, such insurance to afford protection to both Lessor and Lessee, as their interests may appear, including coverage for the contractual liability of Lessee to Lessor assumed hereunder and is to be maintained in an amount not less than \$1,000,000.00 with respect to bodily injury or death to any one person and \$1,000,000.00 with respect to any one accident. Lessee shall deliver to Lessor evidence of such insurance and all renewals thereof on request. Lessee shall name Lessor and Lafayette City-Parish Consolidated Government as Additional Insured(s) with a waiver of subrogation in favor of both parties.
- B) Workers Compensation: Lessee shall maintain Worker Compensation Insurance in the amount of \$1,000,000.00. Lessee shall name Lessor and Lafayette City-Parish Consolidated Government as Additional Insured(s). Lessee shall deliver to Lessor evidence of such insurance and all renewals thereof on request.
- C) Auto Liability: Lessee shall maintain Auto Liability Insurance in the amount of \$1,000,000.00. Lessee shall name Lessor and Lafayette City-Parish Consolidated Government as Additional Insured(s). Lessee shall deliver to Lessor evidence of such insurance and all renewals thereof on request. Lessee shall name Lessor and Lafayette City-Parish Consolidated Government as Additional Insured(s) with a waiver of subrogation in favor of both parties.
- D) Contents: Lessee shall insure its own contents at its own expense in accordance with industry standards for the Use.

19) **UTILITIES:** Lessor warrants that water, electricity, gas, sewage and LUS Fiber services are provided to the Property. Lessee shall pay two-thirds (2/3) of the actual monthly invoices for all utilities, including water, gas, fuel, electricity, internet service, sewage and trash disposal services utilized by Lessee in the manner established by the Lessor. Lessee shall pay a flat monthly rate of \$1,923.00. Lessor and Lessee shall "true up" on the actual utility cost contribution by Lessee at least annually.

20) **NOTICE:** Any notice provided for herein must be in writing and will be deemed given when delivered to the recipient by certified mail, FedEx or UPS, at the following addresses or at such other addresses as they may from time to time direct.

Lessor: City of Lafayette, Attention: Hollis Conway, 500 Girard Park Drive, Lafayette, LA 70503, hconway@lafayettela.gov, (337) 291-8374; and to

Lafayette Consolidated Government, Attention: Greg Logan, City Parish Attorney, 705 West University Avenue, Lafayette, LA 70506, glogan@lafayettela.gov, (337) 406-9685

Lessee: Charter Schools USA-LA, Attention: Dr. Lonnie Luce, 8940 Bluebonnet Blvd. Suite 300, Baton Rouge, LA 70810, lluce@charterschoolsusa.com, 225-283-0232.

Lafayette Charter Foundation, Attention: Gary McGoffin, 220 Heymann Blvd., Lafayette, LA 70503 gary@dmsfirm.com, 337-233-0300.

21) **CONDEMNATION:** The Lessor and the Lessee shall each be entitled to recover the value of their property taken by expropriation.

22) **QUIET POSSESSION:** Lessor agrees to warrant and defend Lessee in its quiet and peaceful possession of the Classroom Wing, with rights of parking, and ingress and egress, so long as the Lessee is not in default under the provisions of this Lease. Additionally, Lessor agrees to maintain the Classroom Wing and the restrooms designated as RR3 and RR4 on the attached Exhibit A in a manner suitable for Lessee's Use, and to provide the custodian with the equipment and supplies necessary to maintain that standard.

23) **ENTIRETY OF UNDERSTANDING IN WRITTEN LEASE:** It is agreed that the entire understanding between the parties is set out in the Lease and any riders which are hereto annexed, and that this Lease supersedes and voids all prior proposals, letters and agreements, oral or written. The law of Louisiana where the Property is situated shall apply. Jurisdiction and venue of any legal proceeding shall be in Lafayette Parish, Louisiana.

24) **WAIVER:** Failure of Lessor to declare immediately upon occurrence thereof of delay in taking any action in connection therewith shall not waive such default, but Lessor shall have the right to declare any such default at any time, no waiver of any default shall alter Lessee's obligations under the Lease with respect to any other existing or subsequent default.

25) **NON-APPROPRIATION OF FUNDS:** Notwithstanding anything contained herein to the contrary, the continuation of this Agreement into a new fiscal year (*i.e.*, the first November 1st after the effective date of the Agreement) is contingent upon the appropriation of funds to fulfill the requirements of the Agreement. If LCG, after a diligent and good faith effort, fails to appropriate sufficient monies to provide for payments under the Agreement, the obligation to make payment or otherwise perform the covenant and obligations of LCG under the Agreement shall terminate on the last day of the fiscal year for which funds were appropriated.

26) **BUDGETED FUNDS:** Notwithstanding anything to the contrary in the Agreement, the parties agree that the maximum amount payable under the Agreement shall be that which is the amount budgeted by LCG for said Agreement. In the event the total amount of this Agreement is increased by reason of additional quantities or any other reason, so as to exceed the amount budgeted, the parties agree that LCG shall not be liable for the amount of such increase until and unless said budget is amended as provided for by LCG's Home Rule Charter to allow for such an increased amount.

27) **DISPUTE RESOLUTION:** In the event of a dispute that the parties are unable to resolve, the parties agree to submit to non-binding mediation prior to filing any lawsuit related to the terms of this Lease.

28) **ATTORNEY'S FEES AND EXPENSES:** In the event it becomes necessary for either party to employ an attorney to enforce collection of the rents agreed to be paid, or to enforce

compliance with any of the covenants and agreements herein contained, the prevailing party shall be entitled to recover their reasonable attorney's fees, costs and expenses.

29) **LEASE RECORDATION:** The parties may agree that a Memorandum of Lease shall be recorded in the office of the Clerk of Court for Lafayette Parish, Louisiana and acknowledge that this Lease is a matter of public record.

30) **MODIFICATION OF LEASE:** Any modification or amendment of this Agreement shall be in writing and shall be signed by the Lessor and the Lessee.

31) **AUTHORITY:** Lessee's representative as signatory to this Lease has all requisite power and authority to execute and deliver this Lease and to perform all obligations to be performed by Lessee hereunder. The execution and delivery of this Lease has been duly and validly authorized and approved by all requisite action on the part of Lessee. This Lease has been duly and validly executed and when delivered by Lessee, this Lease constitutes a valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

32) **REFORMATION:** If subsequent to the Effective Date: (i) the contents or validity of the Lease are challenged by any governmental authority under applicable law, or (ii) the Lessor determines that a violation of a law has occurred as a result of the Lease or that a violation of a law may occur as a result of the Lease, the Lessor shall promptly use reasonable efforts to analyze, revise, reform and, to the extent necessary, restructure the Lease in a manner that is equitable to all parties in light of the intent of the parties regarding the operations of the Lessee at the Property, as contemplated by the Lease.

This lease is made and signed in duplicate originals before the undersigned Notaries Public and witnesses on the dates indicated below.

Signed this ____ day of _____, 2021 at Lafayette, Louisiana.

WITNESSES:

CITY OF LAFAYETTE

Print Name: _____

By: Joshua S. Guillory _____

Print Name: _____

NOTARY PUBLIC

Printed Name: _____

Bar/Notary No. _____

Commission Expires _____

[Signatures continued on next page]

LEASE AGREEMENT

By and between the **City of Lafayette** (hereinafter "Lessor") and the **Lafayette Charter Foundation** (hereinafter called "Lessee").

[Signature page continued]

Signed this ____ day of _____, 2021 at Lafayette, Louisiana.

WITNESSES:

LAFAYETTE CHARTER FOUNDATION

Print Name: _____

By: Dr. Louella Riggs-Cook, President
Lafayette Charter Foundation

Print Name: _____

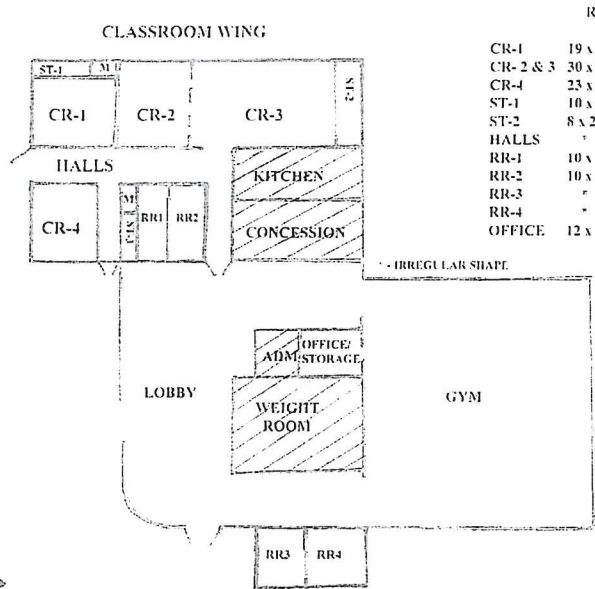
NOTARY PUBLIC

Printed Name: _____

Bar/Notary No. _____

Commission Expires _____

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RENTAL SPACE

CR-1	19 x 24	456
CR-2 & 3	30 x 57	1,710
CR-4	23 x 24	552
ST-1	10 x 16	160
ST-2	8 x 20	160
HALLS	"	384
RR-1	10 x 12	120
RR-2	10 x 12	120
RR-3	"	151
RR-4	"	151
OFFICE	12 x 17	204
		<u>4,017</u>
		x .88
		<u>32,136</u>
		÷ 12
		\$2,678 per month

REVISED 02/26/2021

MAR 08 2021

Lafayette Consolidated Government
Chief Administrative Officer

Internal Memorandum

Legal Department (1400)

TO: Cydra Wingerter
DATE: March 8, 2021
THRU: Gregory J. Logan *gjl*
FROM: Mark Stipe
SUBJECT: Ordinance Approving the Lease of the George Dupuis Recreation Center
for certain hours of the day

I attach the following, and request placement of same on the agenda for introduction at the March 23, 2021 Council Meeting:

- (a) An Ordinance of the Lafayette City Council Approving the Lease of the George Dupuis Recreation Center for certain hours of the day;
- (b) Lease Agreement;
- (c) Agenda Item Submittal Form.

Should you have any questions, please contact our office.


Mark Stipe
Asst. City-Parish Attorney

Attachments

C: Paul Escott
Joshua S. Guillory

LAFAYETTE CITY COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: An Ordinance of the Lafayette City Council approving the Lease of certain portions of the George Dupuis Recreation Center for certain hours of the day

2) ACTION REQUESTED: Adoption of City Ordinance

3) COUNCIL DISTRICT(S) (if applicable): N/A

4) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: March 23, 2021

B) FINAL ADOPTION: April 6, 2021

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Cover Memo (1 page)

B) Submittal Item Justification Form (1 page)

C) Lease Agreement (7 pages)


D) Ordinance (2 pages)

6) FISCAL IMPACT:


 Fiscal Impact

 x No Fiscal Impact

RECOMMENDED BY:


GREGORY J. LOGAN
CITY-PARISH ATTORNEY

APPROVED FOR AGENDA:


CYDRA WINGERTER
CHIEF ADMINISTRATIVE OFFICER